



ITEM 11
SUPPORTING Doc. No. 3

CITY OF OCEANSIDE

WATER UTILITIES DEPARTMENT

July 20, 2005

John H. Robertus, Executive Officer
California Regional Water Quality Control Board
San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123

SAN DIEGO REGIONAL
WATER QUALITY
CONTROL BOARD
2005 JUL 22 P 1:29

Dear Mr. Robertus,

TENTATIVE ORDER NO. R9-2005-0136; NPDES PERMIT NO. CA0107433
REFERENCE NO. POTW:01-0146.02:VASQV

Please accept the following comments on Tentative Order No. R9-2005-0136. Staff from the City of Oceanside met with Victor Vasquez on July 14, 2005 to discuss areas of concern prior to submitting these comments. We appreciate his assistance.

The comments have been broken down into three sections. The sections are as follows.

- Significant Concerns
- Errors, Omissions and Suggested Changes
- Methodology and Limits

The City has significant concerns about the possibility of extreme fines under the mandatory penalty law resulting from compliance with average weekly, average monthly and six-month median effluent limitations.

After reviewing the new permit requirements adopted for the Escondido and San Elijo wastewater facilities, it appears that the City of Oceanside permit has additional requirements under the sections on Receiving Water Monitoring and Special Studies. These include a plume tracking study and a research type project to determine compliance with water quality objectives in addition to testing the discharge. It was our understanding that the Board was standardizing the permits but this does not seem to be the case.

In light of the significant changes and corrections that will be made to this draft permit, the City requests additional time to review the final revised permit.

Please call me at 760-435-5804 or email at gpennell@ci.oceanside.ca.us if you have any questions or need additional information.

Respectfully,

Guss Pennell
Environmental Regulatory Compliance Officer

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I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.



Guss Pennell
City of Oceanside Water Utilities Department
Environmental Regulatory Compliance Officer

July 20, 2005

Significant Concerns: The comments will follow the document as it is printed for easier review.

1. Page 11 – **IV.B.1.** – The requirement for CBOD, Total Suspended Solids and 85% removal to be determined separately for each secondary plant, creates a situation where maintenance and repairs will cause violations. For over 30 years, the combined effluent from our two secondary treatment plants has been used to determine compliance with discharge limitations. Both plants are under the supervision and control of the City of Oceanside and discharge to one outfall.

At times it has been necessary to bypass the secondary treatment portion of part of our treatment system during planned maintenance, repairs and upgrades. The blended discharge has always complied with discharge limitations. During the next five years of this permit it will be necessary to bypass a part of the secondary treatment system at the La Salina Wastewater Treatment Plant (LSWWTP) in order to replace a drive unit. The City is also contracting with an engineering firm to look at repairing the secondary tank structure. Both projects are planned for the summer of 2006. Failure to do these projects will ultimately lead to catastrophic failure of the treatment system and severe property damage. Our system permit over the last 30 years has allowed us to maintain our system as well as stay in compliance with no environmental degradation. We have planned our maintenance with this in mind.

These large projects cannot be accomplished by using auxiliary treatment facilities or retention of untreated waste. The City asks that compliance continue being based on our combined discharge from our two facilities as is currently being done for the four treatment plants at Camp Pendleton under Permit No. R9-2003-0155. An alternative approach would be to allow the bypassing under Attachment D – I.D.3. or 4. on page D-3 where enforcement actions are not taken.

Determination of compliance separately for percent removal is also mentioned on page 29 under VII.H. and in the sampling locations in II. Table 1. on page E-3.

2. Page 12 – **IV.B.2.Table 7b.** – Starting with Acrolein, all of the parameters listed under Table 7b. with Average Monthly Effluent Limitations, with the exception of Tributyltin, should be performance goals. Most of the parameters have never been detected in our effluent or if detected, they were at levels well below effluent limitations with the exception of those parameters where the detection limit was greater than the limitation. A reasonable potential analysis (RPA) should have been done for all of these parameters and the results should have been to move them to the performance goal list. This group of parameters has been included in our monitoring for the last 30 years so sufficient data should be available.

After asking why the parameters were included in this permit as effluent limitations, I was told that there was insufficient data to perform the calculation so the parameters fall under Endpoint 3, the RPA is inconclusive and monitoring is required. Apparently and unknown to the dischargers, sixteen data points are necessary for the calculation but the monitoring is

only required on a semiannual basis. Regional Board staff has chosen to only use the most recent last 4 years of data even though there are many years of data points from approved testing methods available. This approach is questionable at best.

3. Page 21 – VI.C.2.a. - Oceanside Ocean Outfall Capacity

No later than 180 days prior to the Order's expiration date, the Discharger shall submit a written report to the Executive Officer regarding capacity of the Oceanside Ocean Outfall (OOO) that addresses the following items:

- 1) Most current report on OOO capacity conducted within 365 days of the expiration date of this Order (June 8, 2010).

The two statements together would require the outfall capacity study to be done during the first 180 days of the last year of the permit. The narrow time window is not necessary. We are currently doing a detailed capacity study on the outfall. The resulting information will be valid for the life of this five year permit. We ask that the Board drop the second half of the sentence "conducted within 365 days of the expiration date of this Order (June 8, 2010)" and allow submittal of the current study.

4. Page 28 and 29 – VII.A., B., F. – The definitions in the Compliance Determination Standards for average monthly effluent limitation, average weekly effluent limitation and six-month median limitation allows for 30, 7 and 180 violations respectively to be assessed for a single exceedance. This could result in fines of \$90,000, \$21,000 and \$540,000 for this single occurrence and most likely would double when mass limitations violations are considered. This approach has not been consistently applied to all dischargers as indicated by the recent Complaint No. R9-2005-0083 for the City of San Diego. Monthly average violations were treated as a single incident and there were no mass limitation violations mentioned. The CDS language in our draft permit has no factual findings to support the approach in Attachment F. The approach is excessive and allows for unreasonable taking of moneys necessary for the operation of a municipal program.

The daily maximum is the correct limit for daily limits. Treating average weekly, monthly and six-month median limitations as daily violations does not seem correct or fair. The weekly, monthly and six-month median limitations are lower because they are averaged over a longer period of time. By treating weekly average limitation violations as seven days of violations, the limitations have become daily maximums. Considering the potential fines resulting from this language change, a further discussion is necessary.

The recently approved Order No. R9-2005-0100 for San Elijo did not adopt these Compliance Determination Standards. It is our understanding that an administrative rule making by the Board will be necessary to formally adopt the standards. Statewide consistency and reasonableness should be the goal.

5. Page E-3 – II. Table 1. – Shore stations S-6 and S-7 are located in Carlsbad near Beech and Pine Street respectively. The County of San Diego Department of Environmental Health

(DEH) discontinued sampling a shore station located at Pine Street after two years of no exceedances of state standards. Samples were taken once a week from April 1st through October 31st during April 2002 to June 2004. Currently, DEH has a shore station located at Carlsbad Village Drive which is between the proposed S-6 and S-7 stations. There have been no exceedances during dry weather at Carlsbad Village Drive since monitoring started there in April 1999. There is no need for additional shore stations. The City suggests staying with the locations from our current permit (S-1 through S-5), all of which are within the borders of the City of Oceanside. The only suggestion for change would be to relocate any of the five current stations further from storm drains to allow for less effect from surface runoff.

Stations S-6 and S-7 are unnecessary and would cause conflict between two municipalities. Every exceedance no matter what the cause would be blamed on the Oceanside Ocean Outfall. Major storm drains are located at Carlsbad Village Drive and Pine Street so the potential for wet weather exceedances exist. DEH would require posting of beaches that exceed state limits. Oceanside would be required to resample posted beaches or pay DEH to do so within Carlsbad's city limits. There is no supporting data to suggest that our effluent is causing water quality exceedances in Carlsbad. Our S-1 station, located just north of the mouth of Buena Vista Lagoon at the southern city limit and our near shore station N-1 located opposite S-1 at the 30 foot depth contour has no history of exceeding water quality limits with the exception of during heavy discharges from the lagoon. Conversation with Regional Board staff indicated that there was a desire on our part to get rid of our S-1 station so the replacement stations were created. That is not the case.

The City of Oceanside has for many years voluntarily sampled five extra shore stations located north of the five S stations in order to cover the entire length of Oceanside's coastal limits.

6. Page E-10 - **VI.B. and C. – Near Shore and Off Shore Water Quality Monitoring** - Regional Board staff indicated that the tables from the last permit would be inserted to continue with the reduced and intensive monitoring programs. The level of effort in the draft permit in Table 6 and 7 reflects the intensive monitoring program and would be required during the 12-month period of July 1, 2008 through June 30, 2009. This is consistent with other dischargers in our area.
7. Page E-11 and 12 – **VI.E.** – The requirement for Demersal Fish and Macroinvertebrates identified as Biological Transects is a carryover from the 1978 original ocean monitoring requirements. The work requires a diver to identify large plants and animals and take pictures as they go up every 20' from the bottom to 20' from the surface. It involves a single station near the outfall and two reference stations. The results are pictures of blue water and maybe a fish if they are lucky. It is a waste of time and money and will not result in any usable data. Ken Schiff, of SCCWRP, does not support the use of this method and did not include it in your monitoring program for small POTWs document recently developed by SCCWRP. The City suggests adding trawls and deleting the biological transects. Changes in

this program would require the monitoring locations T0, T1 and T2 on page E-4 to be changed as well unless they are incorporated into trawling stations.

8. Page E-13 – **VI.I. Plume Tracking Studies** - The Draft Permit requires that Oceanside implement a significant new and potentially expensive plume tracking study intended to monitor the outfall plume, wet weather runoff from the San Luis Rey River and Buena Vista Lagoon and any stormwater plumes. The objective and goals of the plume tracking study are not clearly stated and only described in very broad and general terms. Yet the study calls for state-of-the-art remote sensing monitoring program. Moreover, the RWQCB staff have not provided any background or rationale in order to require such a highly technological and extensive approach for tracking the plume movement. Oceanside has participated in numerous water column tests including bacterial tests, shoreline bacterial monitoring, and intensive receiving water monitoring; and none of these tests indicate that the plume has a tendency to reach the shoreline or negatively impact the receiving water environment. This new approach to monitoring raises serious questions about its technical validity which have yet to be resolved.

During the April 25, 2005 meeting, Regional Board staff concurred that, rather than imposing these new monitoring requirements on San Elijo JPA through the Draft Permit, the Regional Board should host a workshop to receive input from the public, the regulated community and SCCWRP to develop a meaningful regional monitoring plan. The final adopted Permit for San Elijo JPA did not have a plume study requirement. Oceanside requests the same treatment for the same reasons.

9. Page E-13 – **VI.J. – Determination of Compliance with Water Quality Objectives** – As is the case with the Plume Tracking Studies, this new program is a regional project and not one that a single City should be asked to perform individually. The study asks for a feasibility determination for the monitoring of the receiving waters at offshore stations for the Oceanside Ocean Outfall for each of the pollutants listed under Table B to determine compliance with water quality objectives. The purpose of the Draft Monitoring and Reporting Plan included in this permit is to confirm that the effluent limitations in the Draft Permit are sufficient to protect the beneficial uses of the receiving water in the Ocean Plan.

It is the duty of the regional boards to insure the water quality of the receiving water by the use of limits imposed upon the discharger's effluents. Monitoring of the receiving water for certain constituents is not within the scope of the discharger's responsibility as they are already required to comply with effluent limitations for those constituents. Nor is the discharger in any position to develop the necessary resources to carry out what is essentially a research project for, and at the behest of the regional board.

No other agency with the exception of Fallbrook has been asked to develop this program including the City of San Diego, a discharger of primary effluent. This additional requirement and cost cannot be supported by Oceanside's excellent prior compliance history. The proposal suggests using methods other than the standard approved methods (40 CFR

Part 136) required for our current monitoring. Compliance with the Ocean Plan requires the use of these approved methods. This program should really be considered through a Regional workshop involving all outfall dischargers, SCCWRP, Regional Board staff and the public before being proposed as new provisions in a Draft Permit.

10. Page E-16 – **VII.B.4. Minimum Levels** - The Environmental Laboratory Accreditation Program (ELAP) should be included in the implementation of the Minimum Level (ML) program. The ML program will require significant modifications to laboratory calibration and reporting procedures when analyzing for NPDES parameters. The inclusion of ELAP in the administration of the ML program will help establish common terms and reduce redundancy between the different regulatory programs. (ML, DLR, PQL, RL). It is also required that the discharger instruct its labs to use ML protocols. ELAP is best qualified to ensure that laboratories adhere to the specific requirements of the ML program rather than the individual discharger.

The essential elements of the ML program are not currently part of the ELAP certification process. A lab that is state certified does not mean that the lab is following ML protocols. Dischargers are required to use state certified labs and will expect that the data generated by such a lab will be acceptable for reporting to other state agencies

11. Page F-20 - **IV.C.5. Whole Effluent Toxicity** – The City agrees with the statement in the second paragraph that says “There is no requirement to monitor for acute toxicity for discharges with minimum initial dilution factors below 100.” The requirement to test for acute toxicity based on reasonable potential is not supported by all of the data that has been generated since the City performed the Toxicity Identification Evaluation (TIE) in 2003. After ammonia was confirmed to be the cause of the acute toxicity, the city imposed ammonia discharge limits on all industrial dischargers in the City. The main discharger for ammonia was Hydranautics. The City imposed a contribution permit to limit their ammonia discharge. In 2004, the San Luis Rey WWTP added additional secondary treatment capacity, which reduced the ammonia in the effluent. Since April 2003, the effluent has not exceeded the acute toxicity limits of our current Order No. 2000-011.

The reasonable potential calculation that added the requirement for acute toxicity in this Draft Permit was based, in the opinion of the City, on a single outlier measurement. With the exception of the single acute toxicity value of 3.09, the second highest value for acute toxicity from all tests performed between January 1999 and June 2005 is 1.62 TU. The City requests that only chronic toxicity be included in this Draft Permit. This is supported by the 2001 Ocean Plan language under page 13 - III.C.3.c.(4) “Dischargers shall conduct chronic toxicity testing if the minimum initial dilution of the effluent falls below 100:1 at the edge of the mixing zone.” The minimum initial dilution of the effluent for the Oceanside Ocean Outfall is 87:1. Removing acute toxicity language would affect pages 12, 32, E-7, F-8, F-20, F-21 and F-30.

Typographical Errors, Omissions and Suggested Changes

1. Transmittal letter refers to Escondido's permit under Enclosure 2.
2. Page 1 – The acronyms CWC and CWA should be defined upon first use.
3. Page 1 – **Table 3. Administrative Information** will need to be updated to reflect proper adoption and effective dates.
4. Page 2 – Table of contents page numbers do not coincide with actual page numbers starting at the listing for **V. Receiving Water Limitations**.
5. Page 4 - Facility Contact, Title, and Phone - change the number to (760) 435-5810
Mailing Address – 300 North Coast Highway, Oceanside, CA 92054
6. Page 5 – **II. B. Facility Description**. Not all screenings from the headworks, and solids from grit removal are trucked to a local landfill. Most are hauled to a landfill in Arizona as indicated in the Biosolids annual report.
7. Page 5 – **II.B.** – The BDGF produces up to 6.3 MGD of potable water and 2 MGD of brine, not 3 MGD of potable water and 0.8 MGD of brine.
8. Page 11 – **B. Effluent Limitations and Performance Goals** states that endnotes start on page 33 when they actually start on page 36.
9. Page 15 – Chlorodibromomethane should read Chlorodibromomethane
10. Page 21 – VI.C.2.b. - The secondary treatment capacity is 15.4 MGD for San Luis Rey WWTP and 5.5 MGD for La Salina WWTP not 3.94 MGD as indicated. This must be the capacity of the San Elijo Facility.
11. Page 29 – VII.H. Remove the reference to biochemical oxygen demand to be consistent with the effluent limitation indicated on Table 7a. under IV.B. on page 11.
12. Page 33 – The term NOEC is commonly used rather than NOEL
13. Page 33 – **M.** “If the toxicity performance goals..” should read “If the toxicity *effluent limits*..”
14. Page 33 – **M.** “..then within 15 days of the exceedance,..” should read “..then within 15 days *of notification* of the exceedance..” And clarification as to whether these are calendar or working days would be appropriate.
15. Page 33 – **VII.M.** The instructions for additional toxicity tests due to an exceedance seem to assume a monthly rather than quarterly frequency per MRP V. The last paragraph “If toxicity performance goals identified in Section V.B.2 of this Order are exceeded, then within 15 days of the exceedance, the Discharger shall begin conducting six additional toxicity tests over a 6-month (at least one sample per calendar month, for a total of two samples per calendar month) period and provide the results to the Regional Water Board.” is incorrect. The original testing is required quarterly so it would not result in two samples per month.

16. Page 34 – **M.** “Within fifteen days of completion of the TRE/TIE..” There needs to be some time given for reporting and notification.
17. Page 35 – **Q.2.** ” Detection methods used for enterococcus shall be those presented in USEPA publication USEPA 600/4-85/076, 40 CFR 136, and any other approved method approved by the Regional Water Board. Test Methods for Escherichia coli and Enterococci in Water by Membrane Filter Procedure or any improved method determined by the Regional Water Board to be appropriate.” Poorly written – redundant. The last sentence makes no sense.
18. Page 36 – **Endnotes 4.** Refers to Escondido’s permit.
19. Page 37 - **Endnotes 11.** should be fluorene not fluorine.
20. Page E-1 – **E.VI. B. and C.** - Table of Contents – Off Shore and Near Shore Water Quality Monitoring are switched.
21. Page E-1 – Table of Contents – Solids Monitoring page number incorrect.
22. Page E-1 – Table of Contents – **H. Bight Study** is actually Intensive Monitoring in document.
23. Page E-1 – Table of Contents – **I. Plume Tracking Study** lists the wrong page.
24. Page E-1 – Table of Contents – **J. Urban Runoff Diversions** is actually Determination of Compliance with Water Quality Objectives in document. Urban Runoff Diversions is K.
25. Page E-1 - Table of Contents – **VII. Reporting Requirements, A. General Monitoring,, Discharge Monitoring Reports,** and **Endnotes** page numbers are incorrect.
26. Page E-1 – Table of Contents – **Tables 5, 6, 8, 11** have incorrect page numbers
27. Page E-3 – **II. Monitoring Locations.** This chart does not specify the IDEC brine line under the Outfall 001 discharge point.
28. Page E-5 – **IV. Table 3a.** – The requirements for sampling Oil and Grease and Settleable Solids at location M-001 and M-002 need to be changed to M-003 to agree with the Effluent Limitations listed on page 12 under IV.B. Table 7b. These should be determined on the combined effluent to the ocean outfall.
29. Page E-5 – **Table 3b.** Antimony was a composite sample in the previous permit. Now listed as a grab.
30. Page E-7 – **V. WET Testing Requirements.** The text references a monthly schedule (last line on page) while the table lists a quarterly frequency.
31. Page E-13 – **H. Intensive Monitoring.** Years 1 and 3 are listed but on page F-34 years 2 and 4 are required. It is our understanding that the Intensive Monitoring will be required for a 12-month period beginning July 1, 2008 through June 30, 2009. References to years 1 and 3 or 2 and 4 are incorrect. The City suggests using the same language as was used in the San Elijo Permit on page E-13 under Section VI.H. “The Discharger shall perform the intensive

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monitoring as described by this MRP in conjunction with the Southern California Coastal Water Research Project (SCCWRP) Bight Study.”

32. Page E-15 – **A. 6.** It is our understanding that “practical quantitation limits (PQL) is no longer required.
33. Attachment E Endnotes are misnumbered E-1 and E-2.
34. Page F-1 – Table of contents page numbers do not coincide with actual page numbers starting at the listing for **B. Discharge Points and Receiving Waters.**
35. Page F-2 – The list of tables page numbers do not coincide with actual page numbers starting at Table 2.
36. Page F-2 – Tables 2 to 14 are mislabeled and/or misnumbered
37. Page F-6 – The last line lists a table with no number.
38. Page F-7 – **C. Summary of Existing Limitations...** Order No. 2000-012? Wrong permit number.
39. Page F-7 – **Table 4.** The CBOD, and TSS maximum discharge values and mean lbs/day are incorrect(?). It appears that the data for the Effluent Limitations for lbs/day is incorrect as well.
40. Page F-8 – “The effluent exceed technology-based acute toxicity effluent limits...on January 9, 2003;...March 21 and 28, 2003; and April 8, 2003.” The result for the sample taken on March 28 was 1.62 not 2.09 as stated.
41. Page F-8 – **Table 5.** Does not include monthly ammonia testing. Not all metals were required quarterly, some were required semiannually.
42. Page F-13 – **A.** The second line needs the word “has” between 2000-011 and been.
43. Page F-17 – Table 14 has been mislabeled as Table 8.
44. Page F-21 – **D.** Third line, the word “limitations” is misspelled.
45. Page F-23 – **E. Performance Goals** “These constituents shall also be monitored at M-001,” the location should be M-003.
46. Page F-26 – **2. a.** The phrase in the third line from the bottom of the paragraph “...compared to the those in Order...” needs the word “the” removed.
47. Pages F-29 and F-30 – **B. and C.** Conflicting frequencies for toxicity testing.
48. Page F-31 – **2.** Establishes near shore stations at 3000 feet seaward. The Ocean Plan states 1000 feet from the shore with no reference to the MLLW.
49. Page F-31 – **2. Near Shore Water Quality Monitoring** Enterococcus is misspelled in the second paragraph.
50. Page F-31 – **2. Near Shore Water Quality Monitoring** States that station N-2 has at times exceeded the 6 month limit for enterococcus. We found no evidence of this.

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- 51. Page F-31 – **2. Near Shore Water Quality Monitoring** References Escondido's permit in the third paragraph.
- 52. Page F-32 – **3. Offshore Water Quality Monitoring** The last paragraph states that the new order only alters the sampling frequency from the old order. This is not true, the sampling frequency remains the same.
- 53. Page F-32 – **E.1. Benthic Monitoring** The first paragraph mentions "during the first and third years of the Order." This should be from July 2008 through June 2009.
- 54. Page F-34 – **E.5. Intensive Monitoring** The paragraph mentions "for years 2 and 4 of the Order". This should be from July 2008 through June 2009.
- 55. Page F-36 – **f. Pretreatment Program** States that we do not receive discharges from any industries subject to USEPA standards and have no requirement for a pretreatment program. This is not true. We do receive industrial discharges and are required to have a pretreatment program.
- 56. Page F-39 – **B. Written Comments** The June 1, 2005 date is wrong.
- 57. Page F-39 – **C. Public Hearing** The June 8, 2005 date is wrong.

Methodology and Limits

1. Page 12 – **Table 7b** Oil and Grease lbs/day Instant max is a factor of 10 too low.
2. Page 15 – **Table 8** 2,4-dinitrophenol mg/L limit is a factor of 10 too high.
3. Page 32 – **4)** Seems to allow methods not listed in the CFR
4. Page 35 – **Q.2.** “Detection methods used...shall be those presented in the most recent edition of Standard Methods...” This does not allow for the use of older editions and/or might cause the use of an edition that has not been published for use in the Federal Register or CFR.
5. Page 36 – **Endnotes 9.** There is currently no approved method for determining half those compounds.
6. Page A-3 – **Composite Sample** This definition applies only to certain liquid samples.
7. Page E-7 (Attachment E) – **V. WET Testing Requirements.** “The sensitivity of the test organisms to a reference toxicant shall be determined concurrently with each bioassay test and reported with test results.” Seems to be unduly burdensome as this could double the cost of the test. Also, does this apply to only the chronic test or does it include the acute test?
8. Page E-14 (Attachment E) – **VII. A. 4.** References to Attachment E should be to Attachment D instead.
9. Attachment E Endnotes 8 – Specifies use of test method 8280. This test is not an approved method for WW in the CFR, while 1613 is.
10. Page F-30 – Fourth paragraph. See note 7. above.